

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 14, 2005. At the time of the Final Office Action, Claims 1, 3-13, 15-25 and 31 were pending in this Application. Claims 28-30 were previously cancelled due to an election/restriction requirement and Claims 2, 14, 26 and 27 were previously cancelled without prejudice or disclaimer. Claims 1, 3-13, 16-25 and 31 were rejected and Claim 15 was objected to by the Examiner. Claims 1, 13, and 25 have been amended to further define various features of Applicant's invention. Claims 3 and 15 have been cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 25 and 31 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 25 has been amended to overcome their rejection. The various components which have been added to Claim 25 are discussed on pages 45 and 47 of the written description. Applicant respectfully requests full allowance of Claim 25 as amended.

Since Claim 31 is dependent from Claim 25, Applicant requests withdrawal of all rejections and allowance of Claim 31.

Allowable Subject Matter

Claim 15 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 13 has been amended to include the limitations of Claim 15. Since Claim 15 was previously indicated as allowable, Claim 13 should now be allowable. Applicant requests withdrawal of all objections and allowance of Claim 13 as amended.

Applicant appreciates Examiner's consideration and indication that Claims 25 and 31 would be allowable if written to overcome the rejections under 35 U.S.C. §112, second paragraph, as set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims.

Rejections under 35 U.S.C. §103

Claims 1, 3-13 and 16-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over the article "Economic Analysis of Drilling Plans and Contractors by Use of a Drilling Systems Approach" by W.W. Reynolds ("Reynolds") in view of U.S. Patent No. 4,794,534 issued to Keith K. Millheim ("Millheim"). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to §2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Claim 1 has been amended to include the limitation of Claim 15 (now cancelled). Since Claim 15 was indicated as allowable, Applicant requests withdrawal of all rejections and allowance of Claim 1 as amended.

Claim 3 has been cancelled without prejudice or disclaimer.

Claims 4-12 are dependent directly or indirectly from Claim 1 as amended. Since Claim 1 as amended is now deemed allowable, Claims 4-12 are allowable.

As previously noted, Claim 13 as amended is now deemed allowable.

Claims 16-24 are dependent directly or indirectly from Claim 13 as amended. Since Claim 13 as amended is now deemed allowable, Claims 16-24 are allowable. Applicant requests withdrawal of all rejections and allowance of Claims 1, 4-13, 16-24 and 31 as amended.

Information Disclosure Statement

Applicant encloses an Information Disclosure Statement and PTO 1449 Form, with copies of the references, for the Examiner's review and consideration. Also enclosed is a check in the amount of \$180.00 for the filing fee.

CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of Claims 1, 4-13, 16-25 and 31 as amended.

Other than the \$180.00 for the Information Disclosure Statement, Applicant believes there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

ATTORNEY DOCKET
074263.0169

PATENT APPLICATION
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If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2599.

Respectfully submitted,
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Date: 7 DEC 2005

Enclosure: Information Disclosure Statement and PTO Form 1449, with copies of the references and check for filing fee